

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHAEL JASPER,)	4:14CV3200
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER
MICHAEL KENNY, Director, and)	
DIANA RINES, Warden,)	
)	
Defendants.)	

This matter is before the court on Plaintiff Michael Jasper's correspondence (Filing No. [14](#)) dated December 16, 2014, asking the court to waive his obligation to pay the court's \$350.00 filing fee. For the reasons discussed below, the court will dismiss this action without prejudice and deny Plaintiff's request for a waiver of the filing fee.

I. BACKGROUND

On December 8, 2014, the clerk's office docketed correspondence (Filing No. [12](#)) from Plaintiff that stated, in relevant part: "I am requesting this case be dismissed at this time due to the lack of funds in my account. I would like for you to put a stop on this facility from taking any actions against my account." In an order (Filing No. [13](#)) dated December 9, 2014, the court advised Plaintiff that he would be responsible for the \$350.00 filing fee so long as he remains a prisoner even if the court were to dismiss the action. Because Plaintiff indicated an unwillingness to prosecute this action, the court gave Plaintiff 14 days to file written notice with the court indicating his willingness to proceed with this action. Plaintiff's response to the court's order, the correspondence at issue here, indicates that Plaintiff is unwilling to prosecute this action. Plaintiff also asks the court to reconsider the question of whether he should be forced to pay the \$350.00 filing fee for this action. (See Filing No. [14](#).)

II. DISCUSSION

Under the Prison Litigation Reform Act (“PLRA”), an indigent inmate who files a lawsuit in federal court must pay the \$350.00 filing fee, first by making an initial partial payment and then by sending the remainder of the fee to the court in installments. The method for collecting the filing fee from a prisoner is specifically provided for in [28 U.S.C. § 1915\(b\)](#). Section 1915(b) is written in mandatory terms (“shall”), leaving no discretion to the district court to waive an in forma pauperis prisoner’s filing fee.

“[T]he PLRA makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal.” [In re Tyler, 110 F.3d 528, 529-30 \(8th Cir. 1997\)](#); [Jackson v. N.P. Dodge Realty Co., 173 F. Supp. 2d 951 \(D. Neb. 2001\)](#). Moreover, prisoners remain responsible for their entire filing fees, as long as they are prisoners, even if the case is dismissed at some later time. See [In re Tyler, 110 F.3d at 529-30](#); [Jackson, 173 F. Supp. 2d at 951](#).

For the foregoing reasons, the court will dismiss this action without prejudice because Plaintiff has indicated that he is unwilling to prosecute it. However, the court will not waive his obligation to pay the court’s \$350.00 filing fee.

IT IS ORDERED:

1. This case is dismissed without prejudice. A separate judgment will be entered in accordance with this order.
2. Plaintiff’s institution must collect the monthly payments in the manner set forth in [28 U.S.C. § 1915\(b\)\(2\)](#) and forward those payments to the court.
3. The clerk’s office is directed to send a copy of this order to the appropriate official at Plaintiff’s institution.

DATED this 8th day of January, 2015.

BY THE COURT:

Richard G. Kopf

Senior United States District Judge

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